§ 1273. And even the English courts have refused to allow the subrogation where the surety seeks to secure equal priority with the Crown. *Regina* v. *O'Callaghan*, 1 Ir. Eq. 439. The decision in the principal case, accordingly, necessarily involves a holding that Congress intended to give the surety a new right, and the case can be supported only on this basis. But the earlier cases indicate that REV. STAT., § 3468, is simply declaratory of the equitable doctrine of subrogation in favor of sureties. See *United States* v. *Ryder*, 110 U. S. 729, 739; also *United States* v. *Preston*, 27 Fed. Cas. No. 16,087, 4 Wash. C. C. 446. Hence the common-law rule should apply and the case seems incorrect.

TAXATION — WHERE PROPERTY MAY BE TAXED — DOMESTIC TAX ON SEAT IN FOREIGN STOCK EXCHANGE. — An Ohio stock-broker sought to enjoin the State auditor from listing his membership in the New York Stock Exchange for taxation in Ohio. *Held*, that the petition be dismissed. *Anderson* v. *Durr*, 126 N. E. 57 (Ohio).

A membership in such an exchange is taxable property. *Rogers* v. *Hennepin County*, 240 U. S. 184; *State* v. *McPhail*, 124 Minn. 398, 145 N. W. 108; *In re Glendinning*, 68 App. Div. 125, 74 N. Y. Supp. 190, aff'd, 171 N. Y. 684, 64 N. E. 1121. Intangible personal property is generally taxed at the domicile of the owner. *Scripps* v. *Board of Review*, 183 Ill. 278, 55 N. E. 700. See 1 COOLEY, TAXATION, 3 ed., 89. But certain intangible property, including an exchange membership, may acquire a "business *situs*" and be taxable in a state other than that of the owner's domicile. *Rogers* v. *Hennepin County*, *supra; In re Glendinning*, *supra*. Liability to taxation in both states has been uniformly held not a violation of the Federal Constitution. *Fidelity Trust Co.* v. *Louisville*, 245 U. S. 54; *Blackstone* v. *Miller*, 188 U. S. 189. See Joseph H. Beale, "Jurisdiction to Tax," 32 HARV. L. REV. 587, 588. The decision in the principal case, therefore, rests on strong legal precedents. The taxation of the same property in two states is, however, unjust and economically undesirable. See *Kidd* v. *Alabama*, 188 U. S. 730, 732; *Blackstone* v. *Miller*, *supra*, 205. The Supreme Court has held that taxation at the owner's domicile of tangible personal property which was permanently located in another state violated the Fourteenth Amendment. *Union Refrigerator Transit Co.* v. *Kentucky*, 199 U. S. 194. This doctrine is, however, expressly limited to tangible personalty. *Fidelity Trust Co.* v. *Louisville*, *supra*. See *Union Refrigerator Transit Co.* v. *Kentucky*, *supra*, 205, 206, 211. But the same principle should be extended logically to prevent taxation at the owner's domicile of intangible personal property which in a business sense has a *situs* in another state and is there subject to taxation.

WILLS — REVOCATION BY MARRIAGE. — The testator made a bequest to a certain woman, provided that their contemplated marriage should take place. They married as contemplated within a month. A statute provided that "a marriage shall be deemed a revocation of a previous will." (1917 ILL. REV. STAT., c. 39, § 10.) *Held*, that the will was not revoked. *Ford* v. *Greenawalt*, 126 N. E. 555 (Ill.).

By the common law, marriage without the birth of issue would not revoke a man's will. *Hulett* v. *Carey*, 66 Minn. 327, 69 N. W. 31. The contrary was held in some of the states where statutes had made the wife heir to the husband. *Tyler* v. *Tyler*, 19 Ill. 151. In the same case, Illinois adopted the rule that the revocation was only presumptive. But it was established in England before the Wills Act, and is held by the weight of authority in this country, that revocation caused by change of circumstance is absolute. *Marston* v. *Fox*, 8 Ad. & El. 14; see ROOD, WILLS, 1 ed., § 377. The decision that the statute in the principal case was merely declaratory is therefore untenable;

the purpose of the statute was apparently to make Illinois conform to the general rule. The court also reasoned that the statute itself did not prohibit considering the revocation as merely presumptive, distinguishing it specifically from the English type of statute which provides that a will shall be revoked by marriage. This cannot be sustained. A statute that marriage shall be deemed a revocation is no less absolute than a statute that a will shall be revoked by marriage. *Lathrop* v. *Dunlop*, 4 Hun, 213; aff'd, 63 N. Y. 610. And the Illinois court had already held that the statute ended all controversy. *McAnnulty* v. *McAnnulty*, 120 Ill. 26, 11 N. E. 397; *Hudnall* v. *Ham*, 183 Ill. 486, 56 N. E. 172.

BOOK REVIEWS

PAPERS ON THE LEGAL HISTORY OF GOVERNMENT. By Melville M. Bigelow. Boston: Little, Brown, and Company. pp. 256.

There are five of these papers: I, Unity in Government; II, the Family in English History; III, Mediaeval English Sovereignty; IV, the Old Jury; V, Becket and the Law. Their titles give the impression that they are separate in character; but in fact they form a single thesis illustrated historically from general political and constitutional history, and, in the last two papers, from legal history. The thesis is stated in the first paper on the Unity of Government. It is the question as to the proper limits in the sphere of government of the two contrary principles of individualism and collectivism — a question the settlement of which is vital to the stability of government and therefore to the stability of civilized society. Of the sphere of these two principles Mr. Bigelow has said much with which I am in entire agreement. We cannot do without individualism. "In itself individualism is a store house of personal energy; it is the indispensable dynamic of life; when directed to the proper end it is the chief means of doing good." On the other hand, mere unrestrained individualism is "unsafe and unsound when considered in reference to the peace and stability and welfare of the state." Some of the effects of the English policy of Free Trade, and the manner in which that policy was made a fetish in order to suit the transient needs of English party politicians, are perhaps the best illustrations in modern times of the results of unrestrained individualism. That it was inconsistent with the safety of the state was shown by the War, and by the measures passed almost too late to remedy some of its consequences. In effect it denies to the state its proper sphere. On the other hand, the principle of collectivism, which makes for the unity and solidarity of the action of the state, is apt to give the state power to move out of its proper sphere. "History tells us plainly enough that whenever collectivism, such as exists, moves forward with energy towards realizing its purposes, it is sooner or later encountered by sordid individualism with a tangled mass of troublesome influences."

What, then, is the solution? The solution indicated by Mr. Bigelow is the formation of a sound public opinion which will enable the state, without repressing individualism, to bring to bear upon it a restraining influence in the interests of the public weal — a public opinion which will enable the state to repress the evil effects of individualism without reducing the individual to the position of being merely a small cog in the mechanism of a great machine. Now one of the factors in the formation of such an opinion is religion; and one of the greatest achievements of religion, and more especially of the Christian religion, is the family. In the family, as the author points out, the two principles of collectivism and individualism have full play. The family was a "body bound together by service." "It gave to society the stamp of collectiv-